

**CONSUMER PROTECTION
FOR RETAIL ELECTRIC COMPETITION**

**A REPORT TO THE
MISSOURI PUBLIC SERVICE COMMISSION'S
TASK FORCE ON RETAIL ELECTRIC COMPETITION**

**FROM
THE PUBLIC INTEREST PROTECTION
WORKING GROUP**

MARCH, 1998

TABLE OF CONTENTS

CHAPTER I	
INTRODUCTION & EXECUTIVE SUMMARY.....	1
CHAPTER II	
CONSUMER EDUCATION.....	7
CHAPTER III	
CONSUMER PROTECTION.....	11
CHAPTER IV	
UNIVERSAL SERVICE.....	16
CHAPTER V	
COMPETITIVE ISSUES.....	21
CHAPTER VI	
DISTRIBUTION SYSTEM INTEGRITY.....	24
CHAPTER VII	
ENVIRONMENTAL PROTECTIONS.....	26
APPENDIX A	
<u>Structuring A Public Purpose Distribution Fee For Missouri</u> , by	
Roger D. Colton	

CHAPTER I

INTRODUCTION & EXECUTIVE SUMMARY

The Public Interest Protection Working Group has considered the potential impact of retail electric competition on Missouri consumers and is presenting this report to the Missouri Public Service Commission's Task Force on Retail Competition. The report is divided into six chapters addressing: Consumer Education; Consumer Protection; Universal Service; Competitive Issues; Distribution System Integrity and Environment Protection. In some areas we have raised issues for the task force's consideration, in others we have made specific recommendations.

It is important to note that this report deals with consumer impacts associated with retail electric competition. Since the poolco model described in the market structure and market power working group report is not a retail electric competition model, our discussion and recommendations are not relevant to that model. Since the poolco model has no effect on consumer choice, the existing regulatory framework can adequately handle consumer protection issues as they arise during the regular course of business.

The Public Interest Protection Working Group has adopted the principle that electric service is essential to the health and welfare of Missouri citizens. All Missouri consumers, including high-risk consumers should have access to a basic level of affordable and reliable electric service at just and reasonable rates. With this principle in mind, we have addressed six areas that must be carefully considered if it is determined to be in the public interest to initiate retail electric competition.

In the chapters addressing Universal Service and Environmental Protection we refer to **public goods or benefits**. Public goods are defined as things that will not be produced and delivered solely by the free market. They are **public** because they are consumed by the public and their use cannot be restricted to the benefit of a single buyer or group of buyers. Public goods produce a value to society at large.¹ The Public Interest Protection Working Group recommends the consideration of a public benefits charge to fund low-income programs and energy efficiency measures.

¹ Stranded Benefits In Electric Utility Restructuring by National Council on Competition and the Electric Industry, 1996.

EDUCATION

The Public Interest Protection Working Group believes it is imperative that a consumer education plan begin immediately. Consumers are barely aware that the restructuring debate is taking place. The public interest requires that they be brought into the discussion as soon as possible.

Consumers must be educated now about proposals to initiate retail competition and they must be educated on their choices, rights and responsibilities once specific legislation has been enacted. Finally, there must be an ongoing education campaign to ensure a reliable source of information so consumers can exercise informed choices.

A comprehensive objective consumer education program will be a monumental task requiring a large commitment of resources. The Public Service Commission (PSC) should oversee this effort with full participation by all stakeholders.

The Public Interest Protection Work Group makes the following recommendations:

- , The PSC should develop an educational task force immediately to focus on the need for consumer education now. The task force should be made up of representatives from the PSC, Office of Public Counsel, Division of Energy, public interest groups, low income advocacy groups and industry.
- , Assign this educational task force the responsibility to develop a consumer education plan to explain the Retail Electric Competition Task Force Report.
- , Once the transition to restructuring begins, a consumer education plan should be implemented using the same collaborative approach to address the ongoing information needs of the consumer.

CONSUMER PROTECTION

If consumers are to be comfortable with the new environment, they must be confident that they will be better off (or at least no worse off) in a restructured industry. Consumers now have the protection of the rules related to billing and payment standards, meter reading standards, deposit and credit standards, disconnection standards, cold weather protections and dispute resolution procedures. These protections must be continued and must apply to all service providers.

In addition, lessons can be learned from the lack of adequate consumer

protection in the telecommunications area that has been experienced as a result of deregulation. Consumers must be protected from unfair market practices, unconscionable service contracts, unauthorized switching, mislabeling, pyramid schemes and other scams. Strong consumer protection rules aimed at market abuse and unfair business practices must be enacted.

Adequate licensing requirements must be in place for new entrants, consumer privacy must be protected and the Missouri Public Service Commission must have in place an adequate system to resolve consumer disputes. Finally, the Public Service Commission should have adequate enforcement powers to ensure compliance with consumer protection rules. Currently, the PSC's enforcement powers are wholly inadequate to protect consumers in a competitive market.

The Public Interest Protection Working Group makes the following recommendations to address consumer protection:

- , Evaluate the appropriateness of the current consumer protection rules, strengthen them where necessary and make them applicable to all REPs. A strong focus should be placed on preventing marketing abuse.
- , Develop a program of licensing that will provide some assurance to the consumer of the supplier's financial stability and ability to provide quality service.
- , Establish consumer privacy protections. The PSC should protect the confidentiality of consumer billing and payment records and prohibit the release of information without the consumer's written consent.
- , Provide protection to ensure that quality of service is maintained at existing levels.
- , Assign responsibility for dispute resolution to the Public Service Commission and require the development of procedures to facilitate this. It will also be important to include these procedures in consumer education efforts.
- , The PSC should be granted specific enforcement powers. Authority should be given to directly impose fines, penalties and to revoke licenses.

UNIVERSAL SERVICE

All consumers including high-risk consumers should have access to a basic level of affordable and reliable electric service at just and reasonable rates. Since it is not at all clear that all consumers will have a choice of providers or reliable service at affordable and reasonable rates upon the initiation of retail competition, the Public Interest Protection Working Group recommends that at all times a basic service provider must be in place to serve consumers who do not choose an alternative supplier and those who do not have a choice. Although there are several approaches for assigning this responsibility to provide basic service, the Public Interest Protection Working Group recommends that the local distribution utilities (LDU) act as an agent for its non-choosing customers and perform the basic service obligation, at least during the transition period. We recommend that a mandated rate reduction or rate cap be explored in conjunction with the basic service offered during the transition period.

The Public Interest Protection Working Group recognizes that there are many consumer protection issues associated with metering and billing, but we believe that during the transition, it is reasonable (if feasible) for the LDU to perform the metering and billing function to avoid customer confusion.

Finally, the Public Interest Protection Working Group supports the implementation of a cost effective low-income program and we recommend that the PSC have authority to implement a percentage of income plan coupled with an arrearage forgiveness program and weatherization plan to be funded by a non-bypassable distribution charge.

The Public Interest Protection Working Group makes the following recommendations:

- , A basic service provider must exist to serve those that do not choose an alternative REP and for those with no competitive choice.
- , The responsibility to provide basic service should be placed on the LDU during the transition to retail competition.
- , A rate reduction or a rate cap on basic service during the transition should be explored.
- , The LDU should provide metering during the transition.

- , A cost effective low income program should be established in the form of a percentage of income payment plan, arrearage forgiveness plan and weatherization plan.
- , The low income program should be funded by a non-bypassable distribution charge.

COMPETITIVE ISSUES

Retail competition must bring benefits to all consumers in the form of choice and lower rates. Accordingly, the mood toward competition must be devoted to that goal.

The Public Interest Protection Working Group makes the following recommendations:

- , The implementation of retail competition should proceed only if it can be shown to benefit all consumers and should be phased in consistent with this goal.
- , Regulation must continue for services that are not subject to full and fair competition. The PSC must manage the transition to full and fair competition by preventing anti-competitive conduct.

DISTRIBUTION SYSTEM INTEGRITY

With the implementation of retail electric competition, it is in the public interest that safety and quality of service be maintained and that job loss be kept at a minimum.

The Public Interest Protection Working Group makes the following recommendations:

- , The PSC must ensure that present safety levels are maintained.
- , The quality and reliability of electric service must be maintained.
- , Workers subject to downsizing should be given the opportunity to re-enter the job market.

ENVIRONMENTAL PROTECTIONS

While the environment impacts of restructuring of the electric utility industry are unclear, the Public Interest Protection Working Group has identified a number of areas of potential concern or exposure. In addition to preserving current environmental regulations, restructuring should support energy efficiency, standard public disclosure, clean energy resources and research and development.

The Public Interest Protection Working Group makes the following recommendations:

- , Existing environmental standards must be preserved and protections against noncompliance in meeting current or future standards must be ensured.
- , Adequate protection for the proper closure and decommissioning of generation facilities must be ensured.
- , Public benefit programs that address clean renewable resources, energy efficiency and research, development and demonstration of new technologies should be encouraged.
- , The feasibility of a state funding mechanism such as a non-bypassable distribution fee for these public benefit programs should be investigated.
- , Support informed consumer choice by requiring standard public disclosure of generation resource mix and emissions.
- , Encourage research and development and evaluate the feasibility of the expansion of renewable resource technology in Missouri. Within this evaluation, consider the potential for a renewable requirement within the portfolio of the retail electric provider.

CHAPTER II

CONSUMER EDUCATION

Retail electric competition will have a dramatic effect on consumers. While a lively debate continues among industry members and policy makers, consumers are barely aware that such a debate is even taking place. Consumers must be participants in the process. The public interest requires that an effective consumer education campaign begin immediately.

STAGES OF EDUCATION

There will be three distinct stages in the education process. First, the public must be informed now what restructuring may mean to them so that they can participate in the debate. Then, once specific legislation has been enacted, there will be a need to communicate and explain the provisions of it. The industry will be going through a transition phase and the consumer will need assistance in dealing with these changes. Finally, it will be important to provide an ongoing source of information that the consumer can trust and depend on over time as competitive markets develop and evolve.

TASK OF EDUCATING

Clearly, developing an effective consumer education program to explain the complex issue of electric utility restructuring will require a well thought-out organized approach. It will be important to first explain to consumers why they should learn about restructuring and what factors are at stake. Technical issues like reliability, service quality and the economic stability of the supplier will need to be translated into information that is useful to the typical consumer.

Consumer educators will need to work with and through community groups, as well as other state, city and local agencies. The focus should be placed on residential and commercial consumer education. Also segments within these classes (such as low income & rural customers) and other specific groups such as the media and the legislature should be targeted.

The task of educating the public about the changing utility environment will be more of an art than a science. However, as the public is identified and divided into market segments, the most effective methods of reaching various groups can be determined. Existing sources of information and their effectiveness need to be identified. Methods of reaching a target audience can include alternatives ranging

from brochures and public service announcements to web sites and recorded messages on 1-800 numbers. The most effective comprehensive program will probably include a number of different methods to communicate with the public.

INFORMED CHOICE

An essential component of the successful working of the competitive market is consumer access to a source of information on choice that is accurate, timely and objective. Consumers must be able to make informed choices within this competitive market, if they are to reap any of the potential benefits of competition. Under the worst scenarios, if they are unable to access objective comparative information, they may be taken advantage of.

Deregulation in the telephone industry teaches some lessons that may be applicable to the electric industry. The lack of a coordinated education campaign in the telecommunications industry has led to misinformation, consumer confusion and numerous dinner-time marketing phone calls. We must assure that consumers have unbiased, accurate timely information well before the implementation of Achoice@. Consumers must be educated to be smart shoppers.

Consumers will require access to an unbiased market- neutral source of information on issues such as price, quality of service, stability of providers, and risks associated with alternatives. Consumers may also desire information on other topics such as conservation and low income assistance programs and should be directed to specific agencies that are coordinating the funding and administration of these programs. Without a readily available objective source, consumers are left to rely solely upon information received from marketers trying to sell specific products.

COLLECTION OF DATA AND FUNDING

The Public Service Commission should collect and make available relevant information. Methods of collecting and reporting data must ensure accuracy, integrity and timeliness. The retail electric providers (REPs) should have a legal requirement to submit specific data that can be useful for comparisons within specified time frames. There needs to be a penalty and enforcement provision associated with the requirement to submit the data. This could be tied into the licensing procedures that will most likely be put in place. In addition, there may need to be an auditing or surveillance function to ensure the accuracy of the reported data.

Adequate funding must be established to fund consumer education. The budgets for consumer education programs have varied widely throughout the country, ranging

from a high of \$89 million for California's Customer Education Program to a low of about \$630,000 for Vermont's Consumer Information and Education Plan.² A number of factors such as the number of customers and the methods of communication will dictate the necessary size of the budget. Alternatives for the actual funding mechanism will also need to be examined.

RESPONSIBILITY

The responsibility for overseeing a comprehensive objective consumer education program needs to be assigned to an agency that has experience with the industry and who has the capability to collect and maintain industry data. The Legislature will need to determine an agency to hold primary responsibility for the coordination and provide funds for these efforts. The Public Service Commission appears to be the most likely candidate to coordinate these efforts and should work with the investor owned utilities, municipalities and cooperatives to develop uniform methods to communicate with the public. However, the education process should be a collaborative effort between a number of parties.

This collaborative effort should provide ongoing direction and support to the agency designated with the primary responsibility for the collection, maintenance and distribution of information. Public interest groups should be encouraged to strengthen their own efforts in providing consumers with information that may contain a particular focus or message.

RECOMMENDATIONS

The discussions presented earlier have been necessarily brief and limited regarding the importance of consumer education and the priority it should be given in any discussion of restructuring. The specific needs and methods of consumer education will require a focused assessment before a strategy can be developed that will be responsive, effective and efficient. With this in mind, the Public Interest Protection Working Group makes the following recommendations with respect to consumer education:

² Michigan Public Service Commission, Case No. U-11290, Electric Restructuring, Customer Focus Issues and Recommendations

- , The PSC should develop an educational task force immediately to focus on the need for consumer education now. The task force should be made up of representatives from the PSC, Office of Public Counsel, Division of Energy, public interest groups, low income advocacy groups and industry.
- , Assign this educational task force the responsibility to develop a consumer education plan to explain the Retail Electric Competition Task Force Report.
- , Once the transition to restructuring begins, a consumer education plan should be implemented using the same collaborative approach to address the ongoing information needs of the consumer.

These recommendations are designed to encourage the Retail Electric Competition Task Force to recognize the importance and the critical need for consumer education even before the consumer is faced with making decisions.

CHAPTER III

CONSUMER PROTECTION

If consumers are to be comfortable with the new competitive environment, they must be confident that they will be better off (or at least no worse off) in a restructured industry. At a minimum, existing consumer protection rules must be retained.

EXISTING PROTECTIONS MUST BE RETAINED

Under the present system, the Missouri Public Service Commission has exercised its authority over electric utility price and services and has developed a comprehensive framework of consumer protection, regulations and policies. The Commission has promulgated rules addressing: quality standards; safety standards; billing and payment standards; meter reading standards; settlement agreement provisions; deposit credit and late payment standards; discontinuance of service standards; restriction on service disconnection during cold weather; dispute resolution requirements and consumer complaint procedures. These rules must continue and must apply to all service providers under a restructured environment.

The PSC does not presently have jurisdiction over municipal utilities and cooperatives. These groups have developed their own billing standards modeled after the PSC rules. The same rules should apply to all LDUs under the restructured environment.

ADDITIONAL PROTECTIONS WILL BE REQUIRED TO PREVENT MARKETING ABUSES

The Public Service Commission must respond with new and innovative approaches to the challenge of consumer protection under competition. The new scenario will emphasize little price regulation of retail electric source and low barriers to entry for new firms. Present rules must be evaluated and strengthened to maintain consumer protection in a restructured environment.

The average consumer neither understands the full extent of the change to competition nor is ready for drastic change. Electricity is a necessity, not an option, and mistakes in the provision or disconnection of power can cost lives. Increased protections may be necessary in many areas and should not be ignored because of claims that competitive markets won't tolerate increased consumer protection regulations. Many other specialized but competitive businesses continue to operate

under some type of regulation because of the highly technical nature of their businesses or the potential harm that could come to consumers without sufficient oversight. Examples of such industries include the banking and credit and life insurance industries. Therefore, there is precedent in other established industries for implementing strong consumer protection rules without creating barriers to entry or hampering the competitive market.

Electric consumers may be faced with a variety of choices. While benefits may be gained from choice, consumers could become confused and fall prey to unscrupulous business practices. Marketing efforts of REPs are likely to increase significantly as unbundling occurs and as purchase options increase. Existing regulations and consumer protection laws may not adequately address unfair marketing practices, unconscionable service contracts, unauthorized switching of providers, unauthorized provision of additional services, mislabeling and pyramid schemes. The Commission must have clear authority to enact new consumer protection regulations to address these issues. Strong consumer protection rules aimed at marketing abuses and unfair business practices will minimize confusion, identify trends, and target consumer abuse. These protections should permit timely prevention, mediation and enforcement.

LICENSING

All REPs should be required to be licensed by the PSC to do business in the State. At a very minimum, licensing should require the disclosure of relevant information to the Commission and the public. Relevant information should include such information as the REPs' legal name, business address, telephone number, proof that it is authorized to do business in the state, reasonable consumer access including a toll-free customer service contact, evidence of financial soundness, evidence of technical and operational ability, the services being provided, disclosure of civil, criminal, or regulatory sanctions imposed against the company, if any, generation resource mix, generation emissions, and a willingness to abide by the PSC's rules and codes of conduct. Licensing should require certain codes of conduct, such as prior written notice to consumers in plain language of terms and conditions of service as well as compliance with PSC rules regarding billing, collection, deposit, credit, disconnection, marketing and disclosure requirements.

A licensing process should include a brief time frame (such as 60 days) for verification of the information. PSC rules should specifically allow for the imposition of penalties or the revocation of a firm's license if the information is found inaccurate or if a regulatory requirement is not met. A bonding requirement should

be imposed to help prove the firm's financial soundness and to assure a source of compensation to individual parties if the need arises.

PRIVACY

Although information about consumers such as energy consumption and time of usage may be useful to competitors for marketing purposes, consumers should have reasonable privacy protections and should have an expectation that their billing and payment records and other information collected by the REP and LDU is confidential. Consumer privacy should take precedence over industry marketing concerns.

Accordingly, the consumer should authorize, in writing, any release of information to designated REPs. Written permission should be required for basic information such as the customer's name, the billing address, the telephone number, the account number and customer specific historic metered usage.

QUALITY OF SERVICE

Consumers must be assured that the quality and reliability of service is maintained at existing levels during the transition and after the implementation of restructuring. The PSC should have clear authority to impose quality of service performance standards, as required, related to service interruption, trouble reports, response to customer inquiries, and other standards that will permit the PSC to measure any denigration of service. This information should be retained at the PSC and made available to the public upon request.

Although the PSC currently monitors quality of service, those efforts need to be enhanced to ensure that a LDU does not engage in unreasonable cost saving measures to generate additional dollars to be invested in competitive ventures at the expense of the regulated distribution business.

DISPUTE, RESOLUTION AND ENFORCEMENT POWERS

Concurrent with an effective consumer education and outreach program, that informs consumers of their rights and responsibilities under a restructured environment, consumers must be provided a neutral forum where disputes can be resolved in an inexpensive and timely manner. The PSC should continue and enhance its informal and formal complaint resolution procedures. These procedures should be made known to consumers so that they will feel comfortable seeking resolution as well as be confident that there is an independent entity who will assist in resolving their complaint.

The PSC should have clear and unambiguous authority to expeditiously investigate and enforce compliance with consumer protection rules and requirements. Currently PSC enforcement authority is weak. The PSC has no independent authority to levy penalties or fines on a company that abuses Commission rules. In order to impose penalties on violators, the PSC must adjudicate a complaint proceeding and make a finding that the company has violated a Commission rule or order. Once the PSC makes a finding after hearing that a utility is in violation, if the PSC believes that penalties are in order, it must direct the PSC's General Counsel to file a penalty action in Circuit Court. This is inefficient, results in excessive litigation and delays justice.

To ensure adequate enforcement of Commission rules the PSC should have the ability to hold a hearing and upon making the appropriate finding, have the ability to directly impose fines, penalties and revoke licenses where such fines, penalties and revocations are required by the public interest.

RECOMMENDATIONS

The prior discussion attempts to touch upon the importance of critically examining the consumer's exposure in the competitive market and taking steps, where appropriate, to address existing rules and the need for additional protections. With these issues in focus, the Public Interest Protection Working Group makes the following recommendations:

- , Evaluate the appropriateness of the current consumer protection rules, strengthen them where necessary and make them applicable to all REPs. A strong focus should be placed on preventing marketing abuse.
- , Develop a program of licensing that will provide some assurance to the consumer of the supplier's financial stability and ability to provide quality service.
- , Establish consumer privacy protections. The PSC should protect the confidentiality of consumer billing and payment records and prohibit the release of information without the consumer's written consent.
- , Provide protection to ensure that quality of service is maintained at existing levels.

- , Assign responsibility for dispute resolution to the Public Service Commission and require the development of procedures to facilitate this. It will also be important to include these procedures in consumer education efforts.
- , The PSC should be granted specific enforcement powers. Authority should be given to directly impose fines, penalties and to revoke licenses.

CHAPTER IV

UNIVERSAL SERVICE

Electric service is essential to the health and welfare of the citizens of this state. All consumers, including high-risk consumers, should have access to a basic level of affordable and reliable electric service at just and reasonable rates. This commitment must continue to be made to electric consumers during and after the transition to the competitive provision of electric generation service.

While competitive markets maximize economic efficiency, they do not necessarily maximize equity. From a public policy perspective efficiency and equity are both important public goals that must be reconciled. Under the utility regulation model, services are cost based, provided on a nondiscriminatory basis and rates must be just and reasonable. Consumers have learned to expect universal reliable service at uniform, affordable, and stable rates. In a pure profit maximizing competitive market low volume, low-load factor consumers may be subject to unacceptably high rates or worse, no entity may seek to serve them at all. Pure efficiency invites price discrimination; the most captive consumers will be charged the highest rate.

If it is deemed to be the public policy of this state to move toward retail competition, small users of electric services must be protected and assured that they will receive affordable reliable service and will have the opportunity to benefit from retail competition. At a minimum, the consumers must be assured that they will be no worse off under competition than they are under the present system.

BASIC SERVICE OBLIGATION

In order to protect consumers we must insure that a provider exists to serve all consumers. There are three categories of consumers that will need this protection:

- 1) those who do not chose an alternate supplier;
- 2) those who have no competitive choice because they are viewed as high-risk customers or no one chooses to serve them; and,
- 3) those who have chosen a supplier but for some reason the supplier fails to serve them or goes out of business.

All three categories need Universal Service protection for different reasons. The

first group of consumers may not choose an alternate supplier because of hesitancy to move into the world of competition, lack of understanding about choices, resistance to change, or just fear of the unknown. Thus, it is important to provide a stable service without significant price fluctuations while consumers educate themselves and become comfortable with choice. Universal Service protection for the first group of customers may only be required on a transitional basis as consumers become familiar and begin to participate in the new market. For the other two groups of consumers, however, Universal Service protection must continue indefinitely so that all consumers have access to electricity. As a matter of public policy it is universally recognized that continuous electric service is an essential need for all citizens. Whether access to Universal Service is for a transitional period for those consumers who do not make a choice at the outset of competition or for high-risk, or deserted consumers, it can be provided by a requirement that there always be a provider of basic service.

RESPONSIBILITY

One issue to be resolved is, what entity has the responsibility to provide basic service. There are several approaches:³

- 1) The LDU would provide basic service at spot market prices to its distribution customers who do not chose an alternate provider;
- 2) All customers would receive ballots and those that do not chose would be randomly assigned to the REPS that are licensed to provide service in the market;
- 3) The LDU would act as an agent for its customers who do not chose an alternate provider. The LDU would bid for retail suppliers to serve those customers. The terms of the bidding process would be regulated by the Public Service Commission and the actual cost of electricity charged by the winning bidder would be passed through to the consumer;

³ For a discussion of the basic service obligation see Consumer Protection Proposals for Retail Electric Competition: Model Legislation and Regulations, Barbara R. Alexander and the National Consumer Law Center, 1996.

4) The Public Service Commission would act as the consumer agent and perform the bidding function;

- 5) A local government would take on the responsibility of providing basic service for those of its citizens that do not choose an alternate supplier.

The Public Interest Protection Working Group recommends the third alternative during the transition period. This approach would provide the most stability to consumers, but would also enable them to learn about the competitive market. Once the transition period ends, it may be appropriate to examine balloting or some other approach to meet the basic service obligation.

PRICE REGULATION

Another issue to be addressed is whether there should be any regulatory control over the basic service price during the transition. Some states cap the rate or require a rate reduction during the transition to retail competition. Since the focus of moving to a competitive market is on the promise that greater efficiencies will result in lower rates, it would seem reasonable that at least during a transition, consumers should reap the benefit of this promise and enjoy reduced rates. This would also have the benefit of providing consumers with stable service without significant price fluctuations and give them a benchmark to determine if competitive providers can beat the price they are paying under traditional regulation. So long as protections are in place to protect the financial integrity of the distribution company the Public Interest Protection Working Group recommends that the implementation of rate caps or rate reductions during the transition period be explored.

METERING AND BILLING

Under any of the proposals, it must be determined who will have the responsibility to provide metering services and billing and collection services. It is conceivable that the REP will bill separately for electric generation services, while the distribution company will bill separately for distribution., metering and other customer services. Because of customer confusion, it may be reasonable during the transition for the LDU to provide metering and billing and collection services. Permitting the consumers to clearly understand the ability to chose among generation suppliers without multiple and confusing bills may be the best way to move toward competition.⁴ Once consumers are comfortable with comparing prices and choosing

⁴ There may be technical and information system difficulties associated with requiring some LDUs to perform billing for the REPs. This issue needs to be explored.

a REP, the next step toward competition may be separate metering, billing and collection options.

PUBLIC BENEFITS

In addition to the requirement that there always be a provider of basic service, Universal Service protections that currently exist must be continued and perhaps expanded. At the present time utilities engage in programs that are designed to maintain continuous affordable service. These protections are aimed at helping customers continue to receive essential electricity service. The costs associated with the cold weather rule, deposit rules, general disconnection rules, flexible payment arrangements and bad debt customer service expenses are presently embedded in utility rates. These are often called public goods or benefits and many jurisdictions have declared that public benefits should be retained and in some cases expanded.

All providers should be subject to the cold weather rule, deposit rules, disconnection rules and other consumer protection rules promulgated by the Commission.

LOW-INCOME PROTECTION

In the State of Missouri, it is important that the Public Service Commission be given the clear authority to establish and design a cost effective, low-income program.

The Commission should have the authority to establish a percentage of income payment plan coupled with an arrearage forgiveness plan and a weatherization plan in order to establish a program that provides incentives to encourage payment, reduce collection efforts and bad debt expenses. The program should provide assistance targeted to the most needy consumers. The LDU, as well as all retail energy providers should be required to participate in low-income programs established by the Public Service Commission.

Finally, any legislation should permit and recognize that the State's purchasing power could be used to negotiate discounts by leveraging its purchasing power to include LIHEAP eligible households in its contracts.

FUNDING

A mechanism needs to be established to adequately fund low-income programs especially in a competitive environment. Low-income programs may be funded by a non-bypassable charge to be paid by all distribution customers (a public benefits charge) or all suppliers could be assessed an amount based upon their intrastate revenues. The Public Interest Protection Working Group recommends a non-

bypassable distribution charge.⁵ An independent entity should be established to administer the fund.

RECOMMENDATIONS

This discussion addresses the principle that all consumers are entitled to have access to a basic level of affordable and reliable service at just and reasonable rates. The Public Interest Protection Working Group makes the following recommendations:

- , A basic service provider must exist to serve those that do not choose an alternative REP and for those with no competitive choice.
- , The responsibility to provide basic service should be placed on the LDU during the transition to retail competition.
- , A rate reduction or a rate cap on basic service during the transition should be explored.
- , The LDU should provide metering during the transition.
- , A cost effective low income program should be established in the form of a percentage of income payment plan, arrearage forgiveness plan and weatherization plan.
- , The low income program should be funded by a non-bypassable distribution charge.

⁵ For a discussion of the need for low-income programs see Structuring A Public Purpose A Distribution Fee@For Missouri by Roger D. Colton, 1997.

CHAPTER V

COMPETITIVE ISSUES

The Missouri Public Service Commission's Task Force on Electric Industry Restructuring, Public Interest Protection Working Group supports a cautious approach to electric restructuring for Missouri. Retail restructuring should be completely within the control of the state. By recognizing the preeminence of *consumer choice* and *benefits*, a transition to competition will require an understanding of the complexities that accompany such a move.

RETAIL COMPETITION MUST BRING BENEFITS TO ALL CONSUMERS

Retail competition is being promoted by holding out the promise of more choices, more services, and lower rates for all consumers. Policy makers should be convinced that this promise will be fulfilled before plunging headlong into retail competition. Several of the states in the forefront of restructuring are those that have comparatively high rates such as California and the northeastern states. A high cost state will have the most obvious cost advantages as a result of restructuring. Others, including Missouri, are less convinced of the need to rush into change and are taking a more cautious approach. Retail competition in Missouri, where rates are below the national average, could result in higher rates for Missouri consumers.

Missouri should transition to a competitive electricity market in a manner that maximizes benefits to consumers. In the regulated market consumers have been able to depend upon reliable, low cost, and accessible electric energy. To the extent retail competition is available, all classes of consumers should be able to choose their REP.

FLASH-CUT vs. PHASE-IN

How fast Missouri makes a transition to retail competition depends on several factors. Among them are: the ability of the existing infrastructure to support competition; the establishment of a truly competitive market; the ability of consumers to understand their new opportunities and responsibilities; and the definition of the government's role in protecting consumer interests. These factors should all be carefully considered in determining the appropriate transition time to competition.

A staged phase-in is the most cost effective and reasonable approach. All classes of customers should participate equally at each phase, with the entire state moving forward together.

Through the transition, a legislative or regulatory advisory committee including all stake-holders should continually evaluate the process. These stake-holders should include representatives of industry, government and consumers. The Public Service Commission should continue in its regulatory role to monitor the transition and all stakeholders should be involved in the process.

WORKABLE COMPETITION REQUIRES A REALISTIC CHOICE OF SUPPLIERS

The attraction to a restructured electric industry is increased consumer choice along with lower prices. A truly competitive market should be superior in economic efficiency to a regulated market and consumers as a whole should recognize both cost efficiency benefits and increased service options. In order to realize maximum benefits from electric industry restructuring, there must be effective competition in all markets and all customer classes. Competition cannot be decreed, it must, instead, evolve as participants decide it is in their interest to enter the market and consumers are in a position to make informed choices.

Regulation will continue to be necessary to protect consumers. The PSC will need to manage the transition to competition and establish rules and codes of conduct to prevent market power abuse, cost shifting to consumers who lack competitive alternatives and anti-competitive conduct.

METER OWNERSHIP

Although this issue may appear to be more related to Market Power and Reliability, how restructuring defines market responsibilities with respect to meter ownership may affect consumer choice. The owner of the metering hardware will naturally have the market advantage of direct access to customer demand information. Whomever controls the metering must be regulated in a manner to prevent them from impeding competition through unfair control of information or information gathering equipment.

Metering and billing costs should be unbundled from the transmission and distribution costs, and from each other. Metering and meter reading should remain regulated and provided by the LDU. It should be the LDU's responsibility to provide accurate and timely consumer data to all parties authorized to receive such

information by the MPSC. This would not preclude consumers from selecting from multiple metering options, with multiple fee structures, to best meet their needs or the requirements of their retail electric provider. This proposal provides consistent and accurate data to the independent system operator (ISO) and the market. It enhances competitive markets by making consumer switching easier. In addition, this method minimizes consumer confusion, potential fraud, safety concerns, and infrastructure redundancies.

To the extent that controls must be in place to prevent fraud and provide for system reliability and safety we must tightly control the interface between the LDU, the customer, and the REP. The equipment, its use and its cost must be such that any customer can have access to any product available regardless of customer class.

RECOMMENDATIONS

Retail electric competition should proceed cautiously. The Public Interest Protection Working Group recommends:

- , The implementation of retail competition should proceed only if it can be shown to benefit all consumers and should be phased in consistent with this goal.
- , Regulation must continue for services that are not subject to full and fair competition. The PSC must manage the transition to full and fair competition by preventing anti-competitive conduct.

CHAPTER VI

DISTRIBUTION SYSTEM INTEGRITY

Electricity is provided to consumers through an integrated network that physically ties together the generation, transmission and distribution networks. Problems with system reliability on any piece of the network often cannot be isolated to individual utility systems or to a specific consumer. Reliability difficulties on a particular part of the system can often have far reaching effects. Therefore, it is critical that every part of the network continue to be operated and maintained with an emphasis on safety and reliability. Consumers have enjoyed the benefits of a highly dependable system. It is essential under any market structure to assure that this reliability is not degraded.

The larger issue of network reliability is being addressed by the Working Group on Reliability. However, the Working Group on Public Interest Protection has several concerns regarding the reliability of the distribution system under a restructured environment. These concerns are in the area of safety, quality of service and worker job loss. The level of service that consumers currently experience should be maintained or improved as a condition of deregulation.

SAFETY

In a competitive environment, the LDU will still have responsibility for the distribution system and will continue to be regulated under the jurisdiction of the Missouri Public Service Commission. However, there may be incentives to reduce costs in areas that could affect safety considerations in order to generate dollars to be used for affiliated ventures.

The Missouri Public Service Commission, as well as the appropriate safety organizations, should continue to closely monitor the ongoing practices of the LDUs to assure both the safety of the worker and the general public. Attention should be focused upon these practices to assure that present safety precautions are continued and, if the need is identified, are improved upon.

RELIABILITY AND QUALITY OF SERVICE

To aid in the assurance that the quality and reliability of electric service now enjoyed by the citizens of Missouri is not diminished in an unregulated market, standards for reliability and system maintenance may need to be established. These reliability standards may include a regular reporting of outage data under a series of indexes such as the system average interruption duration index (or SAIDI).

If reliability standards are developed, the state Public Service Commission should have the authority to establish and directly impose meaningful penalties and/or sanctions upon any local distribution utility which is found to be in violation of standards of quality or reliability of service.

The effective completion of maintenance activities will continue to be a concern to assure a safe, reliable system. These areas should continue to warrant review and examination by the Public Service Commission.

WORKER/JOB LOSS PROTECTION

The electric utility industry has already begun to adjust the structure and size of its companies to deal with the anticipated changes that will accompany their transition into a competitive market. One of these changes seems to frequently include a downsizing of the levels of its employees. Provisions should be considered to ensure the retraining and/or job rehabilitation of electrical workers who may become displaced due to the restructuring of the industry. Special care should be taken to prevent the loss of job skills necessary to perform the proper maintenance, inspection, and construction of electrical systems. Training programs, including employer financed college courses, should be offered to any employee displaced because of restructuring. Those employees who are unable to fulfill the requirements of participating in such courses should be given training in areas where their abilities and skills allow or to be otherwise rehabilitated to reenter the job market.

RECOMMENDATIONS

- , The PSC must ensure that present safety levels are maintained.
- , The quality and reliability of electric service must be maintained.
- , Workers subject to downsizing should be given the opportunity to reenter the job market.

CHAPTER VII

ENVIRONMENTAL PROTECTIONS

The Public Interest Protection Working Group believes that above all, in a restructured utility industry, consumers must be no worse off than they are under the current regulatory environment. In addition to preserving and reinforcing current environmental regulations, restructuring should support energy efficiency, standard public disclosure, clean energy resources and research and development.

ENVIRONMENTAL STANDARDS

Existing environmental standards must be preserved and compliance with these standards ensured. Without the certainty of cost recovery for environmental controls in a competitive market, the pressures to compete by providing low-cost energy increases the risk of default in meeting current or future environmental standards. Future environmental regulations could include more stringent regulations placed on currently regulated pollutants and restrictions placed on thus far unregulated pollutants, such as carbon dioxide and air toxics. To provide appropriate environmental protection in a restructured market, statutes and budgets may need to be revised or expanded while others may need to be modified so that market forces can serve to protect the environment.

The generation of electric energy is a major contributor to some of the environmental problems we face today. Air, water and waste pollutants produced as a product of electric generation are regulated under the Clean Air Act, The Clean Water Act and the Resource Conservation and Recovery Act.

The environmental impacts of restructuring of the electric utility industry are unclear. There could be increased emissions from old coal-fired generation facilities, particularly in the Midwest. These plants are often inexpensive to run because all of their capital costs have been paid and they have generally not been required to meet the same pollution-control requirements as new plants. Under competition, retail electric providers will have the opportunity to increase profits by selling their power to customers in higher cost regions.

Adequate protection for the proper closure and decommissioning of generation facilities needs to be ensured. Only power plants that can generate electricity at competitive prices will survive in an open market. If competition results in the abandonment of generating facilities, proper closure needs to be conducted to remove potential threats to environmental quality. The cost of decommissioning nuclear

generation facilities is likely to exceed original projections, particularly when federal policy for radioactive waste storage remains unresolved. For plants that are economically marginal, there will be pressure to cut costs, which could have serious implications for human health, safety and clean-up. The Nuclear Regulatory Commission attributed safety problems at the closed Maine Yankee nuclear plant to economic pressure to be a low-cost energy producer.⁶

ENERGY EFFICIENCY

Energy efficiency programs contribute to the environmental quality of the state by eliminating waste in the use of energy. During the transition to a competitive electricity industry, funding for energy efficiency programs is uncertain. To lower their costs during the transition to competition, the utility industry may reduce investments in what have been called public benefit programs.⁶ These programs include energy efficiency, clean energy resources, and research and development of new resources and technologies. There is also discussion of replacing federal appropriations for energy programs (the State Energy Program, Low-Income Weatherization Assistance Program and other efficiency and renewable projects) with a public benefits charge⁶ or a distribution fee⁶. A number of states have earmarked funding for public benefits programs through a distribution fee on consumers which ranges from .2 to .3 cents per kilowatt-hour.

Missouri spends almost \$10 billion per year on all uses of energy, which is approximately 11 percent of total personal income. If Missouri lowers overall energy use through investment in cost-effective, energy efficiency measures and increases the use of alternative or renewable forms of energy, the result will be savings for consumers and an improvement in the overall quality of the environment. A study by the American Council for An Energy Efficient Economy estimates that from 14 to 38 percent of electricity used by the manufacturing sector could be saved by an orderly change out of equipment at the time of the equipment failure, process modernization or new construction.

The use of more efficient motors, generators and other electrical equipment could boost efficiencies for new fossil-fueled power plants significantly, through technologies such as fuel gasification combined with an advanced gas turbine or fuel cells combined with cogeneration. Potential energy savings from the establishment of building standards for commercial and residential buildings in compliance with the National Energy Policy Act of 1992 could be 12 to 32 percent and 11 to 34 percent respectively.⁶ Much of the energy consumption in the residential and commercial

⁶Economic Opportunities through Energy Efficiency and The Energy Policy Act of 1992,

sector is for space heating and cooling, water heating, lighting and food storage. Using cost-effective energy technologies, energy consumption could be reduced.

STANDARD PUBLIC DISCLOSURE

In a competitive electric market, the informed consumer has the power to influence investment decisions in energy generation. For consumers to be informed, they need standard and useful information. Full standardized disclosure should include a supplier's generation resource mix and emissions from generation. There are several models that have been developed for energy labels that could be considered.

RESEARCH AND DEVELOPMENT

Research, development and demonstrations of emerging and existing technologies will allow the retail electric providers to continue to improve and to take advantage of the most efficient and economic technologies available. Some fuels that hold potential for a future energy system include hydrogen and fuel cells. These represent sources that are environmentally friendly and have many potential energy uses including powering non-polluting vehicles, heating homes and offices, and fueling aircraft.

SUPPORT OF RENEWABLES AND CLEAN ENERGY RESOURCES

Clean and alternative energy resource technologies should be a part of Missouri's present and future electric generation. Renewable resources such as solar, wind and biomass, provide significant environmental benefits. The most abundant renewable resource available to Missouri is biomass, or plant matter. The plant material can come from crop residues (like corn stalks and lumber mill waste), crops grown specifically for energy (like switch grass and fast-growing poplar and willow trees) and municipal solid waste (like paper). According to recent studies of the potential of renewable resources in the Midwest, Missouri has an abundant supply of

biomass resources with the potential, using advanced technology, for over 5,000 megawatts of generating capacity at less than 5 cents per kilowatt hour of electricity.⁷

A competitive market may contain barriers to the development of and customers' access to renewable energy sources. These barriers may include competition between new and mature technologies, short-term market pressures to keep initial up-front costs low, market failure to value the public benefits of clean alternative resources, and lack of incentives to continue to support public benefits programs.

During the transition to competition, measures in addition to standard disclosure and research and development may need to be considered to ensure the availability of renewable resources generation. This could include mechanisms such as incentives, tax credits, green power pricing and establishing minimum renewable portfolio standards (RPS) for all energy providers. The option of green power purchases should be available to all Missouri consumers. Market surveys indicate that some consumers are willing to pay a price premium for energy from Agreen® or renewable resources. Consumers may also be interested in producing their own electricity on-site from distributed technologies such as solar, wind, biomass and cogeneration.

A renewable portfolio standard may provide the necessary support for renewables development in order to achieve new technology commercialization, creation of renewables industry infrastructure, expansion of fuel diversity levels and enhanced environmental benefits. This helps to ensure that the consumer has a full range of choices, including the option to purchase renewable source generation. An RPS can be structured in different ways, dependent on public policy objectives.

RECOMMENDATIONS

The prior discussion attempts to touch on the importance of critically evaluating the environment's exposure under a restructured electric market. With these concerns in mind, the Public Interest Protection Working Group makes the following recommendations:

- , Existing environmental standards must be preserved and protections against

⁷Powering the Midwest: Renewable Electricity for the Economy and Environment, Union of Concerned Scientists, 1993

noncompliance in meeting current or future standards must be ensured.

- , Adequate protection for the proper closure and decommissioning of generation facilities must be ensured.
- , Public benefit programs that address clean renewable resources, energy efficiency and research, development and demonstration of new technologies should be encouraged.
- , The feasibility of a state funding mechanism such as a non-bypassable distribution fee for these public benefit programs should be investigated.
- , Support informed consumer choice by requiring standard public disclosure of generation resource mix and emissions.
- , Encourage research and development and evaluate the feasibility of the expansion of renewable resource technology in Missouri. Within this evaluation, consider the potential for a renewable requirement within the portfolio of the retail electric provider.

